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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/362,425	07/28/1999	WILLIAM J. TISO	024/1	6854

7590 06/04/2003  
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EXAMINER

NGUYEN, DUC MINH

ART UNIT	PAPER NUMBER
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2643

DATE MAILED: 06/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/362,425

Applicant(s)

TISO ET AL.

Examiner

Duc Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 4 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_ 6) ☐ Other: \_\_\_\_.

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## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1-5 are rejected under 35 U.S.C. 102(e) as being anticipated by Bridger et al (6,272,209).

Consider claims 1, 3. Bridger teaches an apparatus for interfacing to a telephone line (370) comprising a port (354); means (LTE 300) for automatically determining whether a connector (telephone connected to port 354) inserted into the port is connected to an end user equipment (VoDSL modem 360) or to a network equipment (directly connected to line 370); and

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means (LTE 300) responsive to the means for determining for automatically configuring the port to interface to either an end user equipment or a telephone network (normally, voice communication is provided through VoDSL modem (360). However, if there is a problem with the VoDSL modem (360), the telephone is reconnected directly to line (370). The LTE is reconfigured so as to emulate a POTS line card or an analogue or ISDN modem; col. 1, ln. 60 to col. 2, ln. 63; col. 3, ln. 56 to col. 4, ln. 26; col. 6, ln. 45 to col. 7, ln. 54; col. 7, ln. 55 to col. 8, ln. 65).

Consider claim 2. The switching matrix is met by the relay (352a-b).

Consider claims 4-5. Bridger teaches a port control apparatus comprising means for monitoring the presence of loop voltage, and for detecting if the loop voltage ceases to be present for a predetermined time; means for supplying an output voltage if the input voltage ceases to be present after a predetermined time (when the power goes down at the CPE, the switch 352a-b is changed to connect the telephone directly to the line 370 in order to receive power from the LTE 300; see the abstract; col. 4, ln. 1-12; col. 6, ln. 51 to col. 7, ln. 54).

### *Conclusion*

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Duc Nguyen whose telephone number is (703) 308-7527.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Kuntz, can be reached on (703) 305-4708.

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**Any response to this action should be mailed to:**

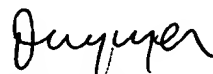
Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**or faxed to:**

**(703) 872-9314** (Group's Fax numbers)  
**(703) 746-7251** (Examiner's Fax number, only for proposed amendment)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

May 22, 2003

  
**DUC NGUYEN**  
**PRIMARY EXAMINER**